

P.C. RESOLUTION NO. 04-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT, AS AMENDED, TO ALLOW ON-SALE GENERAL ALCOHOL, AND OUTDOOR DINING IN CONJUNCTION WITH A RESTAURANT, AT 2205 PACIFIC COAST HIGHWAY, AND LEGALLY DESCRIBED AS LOT 13, 14, AND 15 HERMOSA VIEW TRACT #1

Section 1. An application was filed by Richard Pola, on behalf of “Mama’s Original Pizza and Pasta” restaurant, seeking an amendment to the current Conditional Use Permit for on-sale beer and wine in conjunction with a restaurant, to allow alterations to the existing floor plan, outdoor dining, extended hours and on-sale general alcohol.

Section 2. The Planning Commission conducted a duly noticed public hearing to consider the application to amend the Conditional Use Permit on July 20, 2004, at which testimony and evidence, both written and oral, was presented to and considered by the Planning Commission

Section 3. Based on evidence received at the public hearing, the Planning Commission makes the following factual findings:

1. The current Conditional Use Permit (CUP) granted in 1985 was approved for on-sale beer and wine in conjunction with a restaurant. The proposed amendment involves alterations to the existing floor plan, extended nighttime hours on weekdays, outdoor dining, and to allow general alcohol sales. With the scope of alterations limited to the existing interior, including converting interior space to outdoor dining, the proposal does not significantly alter the existing and approved primary use as a restaurant.

2. The site is located along the Pacific Coast Highway Commercial Corridor in a district in which the commercial uses largely have a daytime orientation, such as offices, retail, and automotive, with no similar restaurants with on-sale general alcohol.

3. The site is zoned S.P.A. 8 allowing the existing on-sale alcohol use with a Conditional Use Permit.

Section 4. Based on the foregoing factual findings, the Planning Commission makes the following findings pertaining to the application to amend the Conditional Use Permit:

1. The site is zoned S.P.A. 8 and the continued operation of the restaurant with the proposed modifications is suitable for the proposed location.

2. The imposition of conditions as required by this resolution will mitigate any negative impacts on, and will improve its compatibility with, nearby residential or commercial properties within the downtown district.

3. This project is Categorically Exempt pursuant to 15301, Class 1 of the California Environmental Quality Act Guidelines, minor alterations to existing private structures.

Section 5. Based on the foregoing, the Planning Commission hereby approves the requested amendments to the Conditional Use Permit, subject to the following **Conditions of Approval**, which supersede the conditions contained in P.C. Resolution 85-26:

- 1. Interior and exterior building alterations and the continued use and operation of the restaurant shall be substantially consistent with the plans submitted and reviewed by the Planning Commission on July 20, 2004.**

1 a). A glass sound barrier shall be provided on top of a solid wall around the exterior perimeter
2 of the outdoor dining area with the combination wall and barrier a minimum height of six
3 (6) feet.

- 4 2. A detailed seating plan shall be submitted to the Community Development Department to
5 determine maximum occupant load, which shall be posted on the premises. Said
6 seating/occupant load plan shall be submitted and approved prior to the issuance of building
7 permits.
- 8 3. The hours of operation shall be limited to between 11:00 A.M. and 11:00 P.M. Sunday through
9 Thursday, and 11:00 A.M. and Midnight Fridays and Saturdays.
- 10 4. The establishment shall not adversely affect the welfare of the residents, and/or commercial
11 establishments nearby.
- 12 5. The business shall provide adequate staffing and management and supervisory techniques to
13 prevent loitering, unruliness, and boisterous activities of the patrons both inside and outside the
14 business and in nearby public areas.
- 15 6. The Police Chief shall determine if a continuing police problem exists, and may authorize the
16 presence of a police approved doorman and/or security personnel to eliminate the problem,
17 and/or shall submit a report to the Planning Commission, which will automatically initiate a
18 review of this conditional use permit by the Commission.
- 19 7. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained
20 free of graffiti at all times.
- 21 8. Any changes to the interior layout which would alter the primary function of the business as a
22 restaurant shall be subject to review and approval by the Planning Commission.
- 23 9. The project and operation of the business shall comply with all applicable requirements of the
24 Municipal Code.
- 25 10. Noise emanating from the property shall be within the limitations prescribed by the city's
26 noise ordinance and shall not create a nuisance to surrounding residential neighborhoods,
27 and/or commercial establishments. Noise emanating from the property shall be monitored to
28 verify compliance with the noise ordinance in response to any complaints.
- 29 11. The Planning Commission shall review the operation of the restaurant for compliance with
conditions of approval and compliance with the Noise Ordinance 6 months from the opening of
the new restaurant, and in response to any complaints thereafter.
12. The Conditional Use Permit shall become null and void if not executed within two years of the
date of the approval of this Resolution.

Section 6. This grant shall not be effective for any purposes until the permittee and the owners of the
property involved have filed a the office of the Planning Division of the Community Development Department
their affidavits stating that they are aware of, and agree to accept, all of the conditions of this grant.

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The Conditional Use Permit Amendment shall be recorded, and proof of recordation shall be submitted to the Community Development Department prior to the issuance of a building permit.

Each of the above conditions is separately enforced, and if one of the conditions of approval is found to be invalid by a court of law, all the other conditions shall remain valid and enforceable.

Permittee shall defend, indemnify and hold harmless the City, its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employee to attack, set aside, void or annul this permit approval, which action is brought within the applicable time period of Government Code. The City shall promptly notify the permittee of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the permittee of any claim, action or proceeding, or if the City fails to cooperate fully in the defense, the permittee shall no thereafter be responsible to defend, indemnify, or hold harmless the City.

The permittee shall reimburse the City for any court and attorney's fees which the City may be required to pay as a result of any claim or action brought against the City because of this grant. Although the permittee is the real party in interest in an action, the City may, at its sole discretion, participate at its own expense in the defense of the action, but such participation shall not relieve the permittee of any obligation under this condition.

The subject property shall be developed, maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions.

The Planning Commission may review this Conditional Use Permit and may amend the subject conditions or impose any new conditions if deemed necessary to mitigate detrimental effects on the neighborhood resulting from the subject use.

Section 7. Pursuant to the Code of Civil Procedure Section 1094.6, any legal challenge to the decision of the Planning Commission, after a formal appeal to the City Council, must be made within 90 days after the final decision by the City Council.

VOTE: AYES:
 NOES:
 ABSTAIN:
 ABSENT:

CERTIFICATION

I hereby certify that the foregoing Resolution P.C. 04- is a true and complete record of the action taken by the Planning Commission of the City of Hermosa Beach, California at their regular meeting of July 20, 2004.

Sam Perrotti, Chairman

Sol Blumenfeld, Secretary

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